

**Notice of Allowability**

Application No.

09/889,746

Applicant(s)

RUELLE, JEAN-LOUIS

Examiner

Padmavathi v Baskar

Art Unit

1645

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to 2/17/04.
2. ☒ The allowed claim(s) is/are 25, 27, 29, 31, 32, 35, 40, 41, 43 and 47 and have been renumbered as 1-10 respectively.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|   | 9. <input type="checkbox"/> Other _____.   |

## DETAILED ACTION

### *Amendment*

1. Applicant's after amendment filed on 2/17/04 is acknowledged.

### *Status of Claims*

2. Claims 25, 27, 29, 31, 32, 35, 40, 43, have been amended.

New claim 47 has been added.

Claims 26, 28, 30, 33-34, 36-39, 42 and 44-46 have been canceled.

Claims 25, 27, 29, 31, 32, 35, 40, 41, 43 and 47 are pending in the application.

3. In view of amendment to the claims, the rejection of claims 25, 27, 29, 31, 35, 40, 41 and 43 under 35 U.S.C. 112, first paragraph (written description) is withdrawn.

4. In view of amendment to the claims, the rejection of claims 25, 27, 29, 31, 35, 40, 41 and 43 under 35 U.S.C. 112, first paragraph scope of enablement is withdrawn.

5. In view of amendment to the claims, cancellation of claims and the arguments of record the rejection under 35 U.S.C. 102(b) as being anticipated by Martin et al 1997 (J.Ex.Med. Volume 185, Number 7, April 7, 1997 1173-1184) is withdrawn as Martin et al do not disclose an isolated recombinant polypeptide comprising the amino acid sequence SEQ.ID.NO: 2 and immunogenic fragments of 15 or 20 contiguous amino acids of SEQ.ID.NO: 2.

6. The instant claims define a novel recombinant polypeptide comprising the polypeptide SEQ.ID.NO: 2 from *Neisseria meningitidis*. This polypeptide has been shown to bind to sera obtained from patients infected with various clinical isolates and is useful for diagnostic assays for detecting the infection caused by various clinical strains of *Neisseria meningitidis*.

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**Remarks**

7. Claims 25, 27, 29, 31, 32, 35, 40, 41, 43 and 47 are allowed and have been renumbered as 1-10 respectively.

**Conclusion**

8. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Padma Baskar Ph.D.

3/14/04

  
LYNETTE R. F. SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600